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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,010	08/29/2001	Thomas S. Messerges	CR00286M	9012
22917 7590 07/01/2009 MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196				
EXAMINER ZIA, SYED				
ART UNIT 2431		PAPER NUMBER		
NOTIFICATION DATE 07/01/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* THOMAS MESSERGES, EZZAT DABBISH,  
LARRY PUHL, and DEAN VOGLER

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Application 09/942,010  
Technology Center 2400

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Mailed: June 30<sup>th</sup>, 2009

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Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*  
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on June 19<sup>th</sup>, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

On November 21<sup>st</sup>, 2007 this appeal was remanded to the Examiner to determine whether Sweet is entitled to the claim, set forth on the patent, for benefit under 35 U.S.C. §119(e) of the August 15, 2000, filing date of Sweet Provisional Application 60/225,796 and/or the October 4, 2000, filing date of Sweet Provisional Application 60/239, 019. On April 3<sup>rd</sup>, 2008 the Examiner filed a Supplemental Examiner's Answer in response to the November 21<sup>st</sup>, 2007 remand, which maintained the Sweet Provisional Application 60/225,796 is entitled to the claim. There is no response from appellant in response to the Answer.

Under the Board's regulations at 37 C.F.R. §41.50(a)(2), the appellant had two months to respond to the Supplemental Examiner's Answer by either 1) reopening prosecution, or 2) by maintaining the appeal by filing a reply brief to the Supplemental Examiner's Answer. The appellant has failed to exercise either of his options under 37 C.F.R. §41.50(a)(2).

Accordingly, it is

ORDERED that Application 09/942,010 is returned to the Examiner for proper consideration.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWH/tkl

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